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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/074,117

02/12/2002

Peter Buchner

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01/12/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
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ALEXANDRIA, VA 22314

EXAMINER

HUYNH, SON P

ART UNIT

PAPER NUMBER

2424

NOTIFICATION DATE

DELIVERY MODE

01/12/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/074,117             | BUCHNER ET AL.      |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | SON P. HUYNH           | 2424                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9 and 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/28/2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to new added claims 9, 11-15 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues Ellis claims to be a continuation of U.S Application No. 09/354,344. However, not all the features disclosed in Ellis are found within its priority document. For example, Figures 27,29,36,38, as cited in the Office Action are not found in Ellis' parent...Ellis cannot properly be relied on as being prior art with respect to the pending claims (pages 6-7, bridge paragraph). This argument is respectfully traversed.

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Ellis (E208) discloses US patent application Ser. No. 09/356,161, filed July 16, 1999 is incorporated by reference in its entirety (see E208 -paragraph 0087). US 2005/0251827 A1 (hereinafter referred to as E827) is a continuation of application No. 09/356,161 and figures 1, 3, 10, 12 in E827 correspond to figures 27,29,36,38 in E208.

In addition, the claimed limitations relied on E208 further disclosed in application No. 09/332,244 (correspond to US 2003/0149988 – referred to as E988 – see figures 5-7, 22, 25b), which is incorporated in its entirety in E208 (see E208-paragraph 0127).

Since all the features disclosed in Ellis are found within its priority document. Ellis is properly be relied as being prior art with respect to the pending claims.

Applicant further argues Ellis does not describe a storage unit where video signals and content data are stored (page 7, paragraph 2). This argument is respectfully traversed.

Ellis discloses storage unit such as storage unit at media server, storage unit at user television equipment where video signals and content data are stored (see include, but are not limited to, E208, paragraphs 0083-0085; E988: paragraphs 0074-0075, 0077-0078, 0081, 0088,0090, 0097-0098, 0165).

For reasons given above, rejections on the claims are analyzed as discussed below.

Claims 1-8, 10 have been canceled.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9, 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura (EP 0 835 029 A2) –hereinafter referred to as Kawamura, in view of Ellis et al. (US 2005/0028208 A1 – hereinafter referred to as E208).

Note: US 2003/0149988 (hereinafter referred to as E988) is continuation of application No. 09/332,244 and US 2005/0251827 A1 (referred to as E827) is continuation of 09/356,161 which are incorporated by reference in their entirety in E208 (see E208: paragraph 0087, 0127). Therefore, these references and other references incorporated in E208 in their entirety are treated as part of the specification of E208.

Regarding claim 9, Kawamura discloses a tuning device (figures 1, 3-5) comprising:

a tuner unit configured to generate a transport stream from a received service (tuner unit configured to generate a transport stream for providing over IEEE 1394 from a service received from antenna – figures 1, 3-5), the received service having a plurality

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of program contents and channel information, program information, etc. associated with the plurality of program contents (figures 1, 3-5, 7b, 7d, 7f-8c, col. 3, lines 1-12, col. 5, lines 30-58, col. 7, lines 18-21, col. 7, line 36-col. 8, line 20), the plurality of program contents comprising subsets of particular transport streams and the program information, channel information, etc. being descriptive of content conveyed by a predetermined particular transport stream (interpreted as subsets of content provided in portion of channels/transport streams – see include, but are not limited to, figures 2A-8C) extracting partial transport stream and outputting the particular stream upon request to the monitor unit (the tuner/tuning device outputting generated transport stream to monitor unit upon request – see include, but are not limited to, figures 1, 3-5, col. 2, lines 39-53),

the tuning device is a stand-alone network device and the predetermined partial transport stream is output to a network (tuner unit is a stand-alone unit and generated packets are outputted to communication network 1394 and the packets/program outputted to the network 1394 is partial of the program contents received at the tuner – see include, but are not limited to, figures 1, 3-5, col. 2, lines 39-53);

Kawamura further discloses a service information control unit (e.g., control sec. 115 – figure 4) configured to extract the service information from the transport stream and distribute the service information to a network connected to the tuning device (async process, control sec. 115, and async. trans. 14 control selection of service information including program content, program name, channel information, etc. received at tuner subunit 11, and distribute the selected service information including

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selected program content, selected channel information, selected program name, etc. over serial bus 1394 to output devices in monitor unit connected to the tuner 1 – see include, but are not limited to, figures 3-5). However, Kawamura does not explicitly disclose the complete service information being descriptive of a remaining portion of the partial transport streams; a storage unit configured to store at least the predetermined partial transport stream extracted from the transport stream and the storage unit outputs the predetermined partial transport stream upon request, the storage unit not storing all of the remaining portions of the partial transport stream; the service control unit, in the first mode of operation, extracts the complete service information from the transport stream and distributes the complete service information to a network connected to the tuning device, and in the second mode of operation, the service information control unit extracts the predetermined partial transport stream from the transport stream, causes the storage unit to store the predetermined partial transport stream and outputs the predetermined partial transport stream to the network upon request.

E208 discloses received service having a plurality of program contents and complete service information associated with the plurality of program contents (control circuitry that receives program contents corresponding to programs and program guide information associated with plurality of program contents - see include, but are not limited to, figures 3-4, 27, 29, 36, 38, paragraphs 0067, 0069, 0080-0085; E988: figures 2d-2e, 5-7, 10-11b, 14c, 18a, 22, 25a-25b), complete service information being descriptive of a remaining portion of the partial transport streams (program guide

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information and/or episode/segment information being descriptive of content conveyed by a predetermined transport stream and a remaining portion of the partial transport stream transmitted to the media server and/or user television equipment - see include, but are not limited to, figures 3-4, 27, 29, 36, 38, paragraphs 0067, 0069, 0080-0085; E988: figures 2d-2e, 5-7, 10-11b, 14c, 18a, 22, 25a-25b; E827: figures 1, 3, 5, 26-27);

a storage unit configured to store at least the predetermined partial transport stream extracted from the transport stream and outputting the predetermined partial transport stream upon request, the storage unit not storing all of the remaining portions of the partial transport stream (interpreted as storage device at remote server, or digital storage device in the set top box, or secondary storage device configured to store at least a portion/segment/episode or selected program of received stream/signal and outputting the portion/episode or selected program to television/remote access device/secondary television upon request, the storage device storing a portion/segment or selected program, not all remaining portions of the partial transport stream - see include, but are not limited to, figures 3-5, 27, 29, 36, paragraphs 0080-0085, 0091; E988: figures 2d, 6b, 9, 18d, 22, 25a-25b, paragraphs 0074-0075, 0078, 0081, 0088, 0095-0096, 0108-0110, 0143, 0163, 0165);

The storage unit outputs the predetermined partial stream to a network (e.g., the storage device output the recorded portion/segment/program to a network connected with remote access device, other user television equipment, or television for playing back— see include, but are not limited to, figures 3-5, 27, 29, 36, paragraphs 0080-0085,



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0091; E988: figures 2d, 6b, 9, 18d, 22, 25a-25b, paragraphs 0074-0075, 0078, 0081, 0088, 0095-0096, 0108-0110, 0143, 0163, 0165);

the service control unit, in the first mode of operation, extracts the complete service information from the transport stream and distributes the complete service information to a network connected to the tuning device (e.g., control circuitry/processing circuitry at the television distribution facility or at the user television equipment, first extracts the program guide information including title, channel, time information, program identifier, etc. from transport stream and distributes the program guide information to a network connected to television distribution facility and/or set top box at the user television equipment- see include, but are not limited to, figures 2d-3, 8b, 9b; E988: figures 2b, 2d, 4, 5-7, 9, 14c-16, 18b-19, 22, 25a-25b), and

in the second mode of operation, the service information control unit extracts the predetermined partial transport stream from the transport stream, causes the storage unit to store the predetermined partial transport stream and outputs the predetermined partial transport stream to the network upon request (interpreted as the control circuitry, when scheduled recording time is approached or when the user select for particular program to record or to control playback on the remote access device, on the television, or on the remote access device, the control circuitry extracts a predetermined particular transport stream which contain content associated with the selected program/segment from the transport stream, and causes the storage device to store/cache/record the predetermined partial transport stream contains the selected portion/program/segment and outputs the recorded/cached content associated with the predetermined partial

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stream to the network connected to the television upon playback request - see include, but are not limited to, E988: figures 2d, 6b, 9, 18d, 22, 25a-25b, paragraphs 0074-0075, 0078, 0081, 0088, 0095-0096, 0108-0110, 0143, 0163, 0165);

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kawamura with the teachings as taught by E208 in order to yield predictable results of improving convenience for the user such as playing program at flexible time or to select desired program or portion of program easily.

Regarding claim 11, Kawamura in view of E208 discloses a tuning device as discussed in the rejection of claim 9. Kawamura in view of E208 further discloses the service control unit includes a command generation control unit configured to generate asynchronous commands to distribute the complete service information to output device connected to the tuning device (control unit comprises async. process and async. trans. 14 configured to generate asynchronous command such as program selection, channel selection, acceptance response, etc. to distribute selected program, selected channel information, or acceptance response to output devices in monitor unit connected to tuner unit 1 – see include, but are not limited to, Kawamura: figures 3-8c, col. 5, line 31-col. 6, line 46, col. 7, line 3-col. 8, line 20, E208: figures 3-5, 7-10; E988: figures 7-12).

Regarding claim 12, Kawamura in view of E208 discloses a tuning device as discussed in the rejection of claim 9. Kawamura in view of E208 further discloses the tuning device

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further comprises a partial transport stream generating unit (packet generation 12 or tuning unit at television distribution facility or at user television equipment) configured to generate the transport stream to be stored in storage unit (see include, but are not limited to, Kawamura: figures 1, 3-5; E208: figures 2c, 3-5; E827: figures 1, 10; E988: figures 2d, 4-13).

Regarding claim 13, Kawamura in view of E208 discloses a tuning device as discussed in the rejection of claim 12. Kawamura in view of E208 further discloses a controller (e.g. async. trans. 14 and control sec. 15 – Kawamura: figure 4 or control/processing circuitry- E208, figures 2c, 3; E988: figures 2b, 5-9) configured to receive information about the content of the predetermined partial transport stream to be generated via at least one asynchronous command and supply the information to the predetermined partial stream generating unit (async. trans. and control sec. receive information about a program to be selected via at least one asynchronous command, supply the information to the packet generation – see include, but are not limited to, Kawamura: figures 1, 3-5, col. 2, line 39-col. 3, line 12, col. 5, lines 31-58; E208: figures 2c-5; E988: figures 2b, 5-9).

Regarding claim 14, Kawamura in view of E208 discloses a tuning device as discussed in the rejection of claim 9. E208 further discloses the storage unit is configured to simultaneously record the predetermined partial transport stream and reproduce the predetermined partial transport stream at a same time or time shifted and/or at least one

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other recorded partial transport stream (memory device for storing video signals and for simultaneously receiving video signals for storage and supplying reproduced video signals -see include, but are not limited to, paragraphs 0080-0085, 0091; E988: paragraphs 0096-0120, 0113, 0165).

Regarding claim 15, Kawamura in view of E208 discloses a tuning device as discussed in the rejection of claim 9. Kawamura further discloses the network is an IEEE 1394 network (see figures 1, 3,5, col. 2, lines 36-38, 55-58). Alternatively, E208 also discloses the network is IEEE 1394 network (paragraphs 0080, 0084, 0194).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Geer et al. (US 6,788,882 B1) discloses systems and methods for storing a plurality of video streams on rewritable random access media and time and channel based retrieval thereof.

Schneidewend (US 6,529,526 B1) discloses system and processing programs and program content rating information derived from multiple broadcast sources.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON P. HUYNH whose telephone number is (571)272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/  
Primary Examiner, Art Unit 2424

January 5, 2009